

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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ROYAL VANN	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.: 2:22-cv-025751
	)	
KROGER LIMITED PARTNERSHIP I	)	
and KROGER CO. (THE)	)	
	)	
	)	<b>JURY DEMANDED</b>
Defendants.	)	

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**NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. § 1446, Defendants, The Kroger Co., and Kroger Limited Partnership I (hereinafter “Kroger” or “Defendants”) hereby file this Notice of Removal removing this case from the Shelby County Circuit Court of the Thirtieth Judicial District at Memphis, Tennessee, Case No. CT-3155-22, where it is currently pending, to the United States District Court for the Western District of Tennessee. This cause is removable pursuant to 28 U.S.C. § 1332, in that Plaintiff’s claims invoke the Court’s diversity jurisdiction and the amount in controversy exceeds the statutorily required \$75,000.00. In support of removal, Kroger respectfully submits as follows:

**INTRODUCTION**

1. Defendant, Kroger Limited Partnership I is a limited partnership with its principal place of business located at 1014 Vine Street, Cincinnati, Ohio 45202.
2. Defendant, The Kroger Co. is a corporation with its principal place of business located at 1014 Vine Street, Cincinnati, Ohio 45202.

3. Kroger Limited Partnership I operates and does business at 4264 Summer Avenue, Memphis, Shelby County, Tennessee. Kroger Limited Partnership I is the proper legal entity.

4. Plaintiff Royal Vann is a citizen of Shelby County, Tennessee.

5. Plaintiff's complaint seeks damages in excess of Seventy-Five Thousand Dollars (\$75,000).

6. The United States District Court for the Western District of Tennessee is the federal judicial district embracing the Shelby County Circuit Court in the Thirtieth Judicial District at Memphis, Tennessee, where this suit was originally filed. Venue is therefore proper under 28 U.S.C. §§ 81(b)(1) and 1441(a).

7. Pursuant to 28 U.S.C. § 1332, this civil action is removable as it invokes the federal court's diversity jurisdiction. This Court therefore has subject matter jurisdiction over this civil action, and removal is proper.

### **PROCEDURAL HISTORY**

8. Plaintiff Royal Vann ("Plaintiff") instituted this civil action in the Shelby County Circuit Court in the Thirtieth Judicial District at Memphis, Tennessee on August 3, 2022, arising out of injuries allegedly sustained in Shelby County, Tennessee, on or about August 17, 2021. A true and correct copy of all process and pleadings as served upon Kroger is attached hereto as Exhibit "A" and is incorporated herein by reference.

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be filed with the Shelby County Circuit Court in the Thirtieth Judicial District at Memphis, Tennessee, and written notice will be provided to Plaintiff along with a copy of this pleading.

**REMOVAL IS TIMELY FILED UNDER 28 U.S.C. § 1446(b)**

10. “The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.” 28 U.S.C. § 1446.

11. Kroger Limited Partnership I and The Kroger Co. were served with the summons in this action via personal service on October 4, 2022. As such, pursuant to 28 U.S.C. § 1446(b), this notice of removal is timely filed since it is filed on or before November 4, 2022.

**NON-WAIVER OF DEFENSES**

12. By removing this action from Shelby County Circuit Court in the Thirtieth Judicial District at Memphis, Tennessee, Kroger does not waive any defenses available to them.

13. By removing this action from Shelby County Circuit Court in the Thirtieth Judicial District at Memphis, Tennessee, Kroger does not admit any of the allegations in Plaintiff’s Complaint.

**WHEREFORE, PREMISES CONSIDERED**, Kroger, by and through its counsel, desiring to remove this civil action to the United States District Court for the Western District of Tennessee, being the district and division for the county in which such civil action is pending, pray that the filing of this Notice of Removal, the giving of written notice thereof to Plaintiff, and the filing of a copy of this Notice of Removal with the clerk of the Shelby County Circuit Court in the Thirtieth Judicial District at Memphis, Tennessee, shall effect the removal of said civil action to this Honorable Court. Kroger demands a jury to try the issues.

Respectfully submitted this the 31<sup>st</sup> day of October, 2022.

**LEWIS THOMASON, P.C.**

By: s/Christopher L. Vescovo  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 31<sup>st</sup> day of October, 2022, a copy of the foregoing pleading has been delivered to all parties at interest in this cause via electronic mail and/or ECF or by delivering same to each party or party's attorney as follows:

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